

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent NEC Solutions (America), Inc., formerly known as NEC Technologies, is a division of NEC Corporation — a Global Fortune 500 company recognized as a leader in computer and technology solutions. During the period complained of, Respondent was a registered lobbyist employer located in Sacramento County.

As a registered lobbyist employer, Respondent had a duty to file quarterly lobbyist employer reports disclosing its lobbying activities. In this matter, Respondent neglected its duty by failing to timely file six paper lobbyist employer reports and three electronic lobbyist employer reports during calendar years 2003 and 2004. This matter arose from a referral by the Secretary of State's Office.

For the purposes of this stipulation, Respondent's violations of the Political Reform Act (the "Act")<sup>1</sup> are stated as follows:

- COUNT 1: Respondent NEC Solutions (America), Inc., failed to timely file a paper Report of Lobbyist Employer (Form 635) for the quarter ending March 31, 2003, by the April 30, 2003, due date, in violation of Section 86117, subdivision (a).
- COUNT 2: Respondent NEC Solutions (America), Inc., failed to timely file an electronic Report of Lobbyist Employer (Form 635) for the quarter ending March 31, 2003, by the April 30, 2003, due date, in violation of Section 84605, subdivision (d).
- COUNT 3: Respondent NEC Solutions (America), Inc., failed to timely file a paper Report of Lobbyist Employer (Form 635) for the quarter ending September 30, 2003, by the October 31, 2003, due date, in violation of Section 86117, subdivision (a).
- COUNT 4: Respondent NEC Solutions (America), Inc., failed to timely file a paper Report of Lobbyist Employer (Form 635) for the quarter ending December 31, 2003, by the February 2, 2004, due date, in violation of Section 86117, subdivision (a).
- COUNT 5: Respondent NEC Solutions (America), Inc., failed to timely file an electronic Report of Lobbyist Employer (Form 635) for the quarter ending March 31, 2004, by the April 30, 2004, due

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

date, in violation of Section 84605, subdivision (d).

- COUNT 6: Respondent NEC Solutions (America), Inc., failed to timely file a paper Report of Lobbyist Employer (Form 635) for the quarter ending March 31, 2004, by the April 30, 2004, due date, in violation of Section 86117, subdivision (a).
- COUNT 7: Respondent NEC Solutions (America), Inc., failed to timely file a paper Report of Lobbyist Employer (Form 635) for the quarter ending June 30, 2004, by the August 2, 2004, due date, in violation of Section 86117, subdivision (a).
- COUNT 8: Respondent NEC Solutions (America), Inc., failed to timely file an electronic Report of Lobbyist Employer (Form 635) for the quarter ending June 30, 2004, by the August 2, 2004, due date, in violation of Section 84605, subdivision (d).
- COUNT 9: Respondent NEC Solutions (America), Inc., failed to timely file a paper Report of Lobbyist Employer (Form 635) for the quarter ending September 30, 2004, by the November 1, 2004, due date, in violation of Section 86117, subdivision (a).

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in Section 81002, subdivision (b) is to ensure that the activities and finances of lobbyists are disclosed, so that improper influences are not directed at public officials. To that end, the Act sets forth a legal framework that requires registration and reporting by individuals and entities that make or receive payments for the purpose of influencing legislative or administrative action.

“Influencing legislative or administrative action” means communicating directly or taking any other action for the principal purpose of supporting, promoting, influencing, modifying, opposing, delaying or advancing any legislative or administrative action. “Legislative action” includes the drafting, introduction, consideration, modification, enactment, or defeat of any bill, amendment, report, nomination, or other matter by the Legislature and, action of the Governor in approving or vetoing any bill. (Section 82037.) “Administrative action” includes the proposal, drafting, development, enactment, or defeat by any state agency of any rule or regulation. (Section 82002.)

One feature of the lobbyist reporting system is that any person who qualifies as a “lobbyist employer” is required to file periodic paper reports containing information about the lobbying activities being conducted on behalf of the lobbyist employer. (Section 86116.) A lobbyist employer is a person, other than a lobbying firm, if the person either: (a) employs one or more lobbyists for economic consideration, for the purpose of influencing legislative or administrative action or (b) contracts for the services of a lobbying firm, for economic

consideration, for the purpose of influencing legislative or administrative action. (Section 82039.5.)

Lobbyist employers must file the required periodic reports with the Secretary of State by the end of the month following each calendar quarter.<sup>2</sup> (Sections 86117, subd. (a), 86118.). Beginning July 1, 2000, lobbyist employers were required to file their lobbyist employer reports in paper and electronic form if the total amount of any category of reportable payments, expenses, contributions, gifts, or other items was \$5,000 or more during a calendar quarter. (Section 84605, subd. (d).) Once a lobbyist employer triggered the initial obligation to electronically file a lobbyist employer report, all future periodic lobbyist employer reports were also to be electronically filed. (Section 84605, subd. (g).)

In 2005, lobbyist employers were relieved of the obligation to file the quarterly lobbyist employer reports in paper form and electronically. (Section 84606.) Instead, beginning with the reporting period for January 1, 2005, through March 31, 2005, lobbyist employers were only required to file reports electronically.

### SUMMARY OF THE FACTS

During the time period complained of, Respondent NEC Solutions (America), Inc., formerly known as NEC Technologies, was a registered lobbyist employer located in Sacramento County. As a lobbyist employer, Respondent had a duty to file quarterly lobbyist employer reports disclosing its lobbying activities. Respondent neglected this duty by failing to timely file six paper lobbyist employer reports and three electronic lobbyist employer reports during calendar years 2003 and 2004. The table below lists and describes each of the lobbyist employer reports not timely filed by Respondent.

| Count | Lobbyist Employer Report Not Timely Filed | Reporting Period | Due Date | Actual Filing Date | Number of Days Late | Amount Paid to Lobbyist Firm During the Reporting Period |
|-------|---|------------------|----------|--------------------|---------------------|--|
| 1     | 1st Quarter (2003)                        | 1/1/03-3/31/03   | 4/30/03  | P 7/30/03          | 91                  | \$45,000   |
| 2     | 1st Quarter (2003)                        | 1/1/03-3/31/03   | 4/30/03  | E 7/24/03          | 85                  | See above.   |
| 3     | 3rd Quarter (2003)                        | 7/1/03-9/30/03   | 10/31/03 | P 2/22/06          | 844                 | \$15,000   |
| 4     | 4th Quarter (2003)                        | 10/1/03-12/31/03 | 2/2/04   | P 2/22/06          | 751                 | \$30,000   |
| 5     | 1st Quarter (2004)                        | 1/1/04-3/31/04   | 4/30/04  | E 5/13/04          | 13                  | \$22,500   |
| 6     | 1st Quarter (2004)                        | 1/1/04-3/31/04   | 4/30/04  | P 2/22/06          | 663                 | See above.   |
| 7     | 2nd Quarter (2004)                        | 4/1/04-6/30/04   | 8/2/04   | P 8/16/04          | 14                  | \$22,500   |
| 8     | 2nd Quarter (2004)                        | 4/1/04-6/30/04   | 8/2/04   | E 8/16/04          | 14                  | See above.   |
| 9     | 3rd Quarter (2004)                        | 7/1/04-9/30/04   | 11/1/04  | P 2/22/06          | 478                 | \$22,500   |
|       |   |                  |          |                    |                     | <b><u>TOTAL:</u></b><br><b>\$157,500</b>                 |

<sup>2</sup> Under Regulation 18116, if the last day of the month falls on a Saturday, Sunday, or official holiday, the filing deadline is extended to the next regular business day.

During the reporting periods at issue, Respondent paid \$157,500 to the Sacramento-based lobbying firm Capitol Advocacy, LLC, to influence legislative action. All of the legislation at issue pertained to the Department of Motor Vehicles (“DMV”) and requirements for the DMV to collect identification and fingerprinting information from driver’s license applicants and maintain the information in a corresponding database.

For each of the quarterly lobbyist employer reports not timely filed, either Caren Daniels-Meade or John Keplinger of the Political Reform Division of the Secretary of State’s Office, sent Respondent at least two notification letters advising Respondent that the reports were past due. As a result of these contacts, Respondent filed two delinquent reports in July 2003 and three additional reports in May and August 2004. In February 2006, as a result of contacts by the Enforcement Division, Respondent promptly filed the four remaining delinquent reports.

### **CONCLUSION**

This matter consists of six counts of violating Section 86117, subdivision (a), and three counts of violating Section 84605, subdivision (d), all of which carry a maximum possible administrative penalty of \$5,000 per violation, for a total maximum possible penalty of \$45,000.

Historically, for failure to timely file paper lobbyist employer reports, the typical penalty was in the mid-to high-end of the penalty range, depending on the circumstances of the case. The harm inherent in this kind of violation is that the public is deprived of important information, such as the identity of the person ultimately seeking to influence legislative or administrative action and the amount of money expended by that person to influence such action.

In this case, Respondent demonstrated a pattern of negligence in failing to timely file nine quarterly reports over the course of two years, despite having full knowledge of its filing obligations and having received numerous prior contacts from the SOS. Moreover, Respondent filed several of the delinquent quarterly reports more than a year past their due dates and paid significant sums of money to a lobbying firm to influence legislation during the reporting periods covered by the delinquent reports. Consequently, Respondent’s actions warrant a penalty at the higher end of the historical penalty range for this kind of violation.

Accordingly, the foregoing factors justify imposition of the agreed on penalty of \$31,500.